Holifield on AEC and Fallout, P. 2

Must Negroes Rise in Budapest to Get Eisenhower's Attention? Page 2

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Hungary, Too, Had Trouble With Its Judges

Members of Congress disturbed by recent decisions of the Supreme Court will find much to interest them in the report of the United Nations Special Committee on Hungary. There, too, in recent months the efforts of the government to deal with "subversive activities directed from abroad" have encountered obstacles in the courts. "Evidently under the influence of the principle of the independence of judges," as the Minister of the Armed Forces and Public Security Affairs protested, some courts proved reluctant to apply security decrees. "Newspapers have complained," the United Nations Special Committee reports, "that in many cases judges have acquitted offenders who should have been punished." Wilful judges seem to be a problem everywhere.

The Newer Jurisprudence

The Hungarian government did not wait for corrective legislation. It summoned the presiding judges of its law courts to a special conference in Budapest last February 15. The Ministry of Justice briefed them on their duty, and let them know other steps would be taken if they failed to do it. They were instructed that in dealing with subversive elements they must be "tough, quick and merciless." In lecturing recalcitrant judges, the Ministry explained that "a basic condition of good jurisdiction" must be a "correct political orientation." According to some members of Congress this is what our Supreme Court lacks, too.

No one would be so crass as to propose that we imitate Hungarian methods in dealing with judges who shield subversive elements. But it is possible that something might be learned from Hungarian experience. Perhaps when Congress adjourns Senator Eastland or Congressman Walter might consider a visit to Hungary for an exchange of ideas on how to handle judges who show an inadequate appreciation of internal security.

A Common Problem

It may seem indelicate to suggest that those in this country who have been in the forefront of the struggle against Communism might find anything in common to discuss with the officials of a Soviet satellite dictatorship. But the United Nations report demonstrates that as the cold war abates the insistence of judges on the independence of the judiciary is becoming a world-wide problem for police agencies, whether Communist or capitalist, in defending social order against subversion.

This common interest is most easily seen if we start with basic police problems. Our police are upset because the Supreme Court in the *Mallory* case has just reversed the conviction of a confessed rapist on the ground that he was held by the police until he confessed. Our District of Columbia Police Chief Murray protests that his force has been "handcuffed" by Mr. Justice Frankfurter's ruling that "while circumstances may justify a brief delay between arrest and arraignment . . . the delay must not be of a nature to give opportunity for the extraction of a confession." Soviet officials would have no difficulty in sharing the horror of our police, nor in understanding Chief Murray's argument that questioning before arraignment often protects the innocent.

Confessions Ready in the Freezer

A recent example from the Soviet world, where such tactics are regularly employed, shows how right our police chief is. There was a big bank robbery in Moscow a month ago (N. Y. Times, June 28) and three suspects were arrested. All confessed. It turned out, according to the account in *Sovietskaya Rossiya* that only one was actually involved but the other two will be tried later for other crimes. The Soviet newspaper did not explain what those other crimes were or whether they had yet been committed. But since the culprits and their confessions are already in the hands of the police, it is easy to see that many innocent persons will be saved from arrest for those other crimes when they occur.

It may be harder to understand what Communist and capitalist governments have in common when it comes to problems of subversion. Ostensibly *their* subversives are trying to overthrow Communism and establish capitalism while *ours* are trying to overthrow capitalism and establish Communism. But the sophisticated observer will not be confused by ideological terminology. On both sides, however different the labels, the trouble is with malcontents and "ag'in-ers." Men of substance, disposing of large properties on the one side or occupying lucrative government posts (with *dachas* attached) on the

(*Continued on Page Four*)

De Profundis

"The House Committee on Un-American Activities and the Senate Sub-Committee on Internal Security have been rendered as innocuous as two kittens in a cage full of rabid dogs."

—Cong. Donald L. Jackson (D. Cal.) in the House June 27 criticizing the Supreme Court.

"As a result of the decisions, scores of Communists will go free. The decisions have shattered the morale of all who have been working to win convictions against Communism."

—Robert Morris, chief counsel of the Senate Internal Security Committee, New York Times, June 26.

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Must Negroes Rise in Budapest Before They Can Get Ike's Attention?

The UN Hungarian Report: A first rate job, must reading for the independent-minded, not half as harsh as the first hand account of the London *Daily Worker's* indignant ex-correspondent Peter Fryer (*Hungarian Tragedy:* Pioneer Publishers, N. Y. $1). The picture of a regime which fell apart and proved to have no base but its own secret police.

Our Own Freedom Fighters: It's a pity the brave efforts of the Hungarian people will become a cold war propaganda instrument and that in the eyes of the colored world the whole affair will be compromised by the contrast so poignantly focussed by Wilkins of the NAACP: "When Hungarians resist oppression they are called heroes; when American Negroes . . . resist oppression they are called agitators." The UN is summoned to meet by the same government which "does not say a mumbling word to the Deep South states about persecution, nor does it offer to aid a single black refugee."

"Betraying" Secrets: Greater than any "betrayal" of defense secrets by the press, as alleged by frenetic Loyd Wright, in his appeal for an Official Secrets Act is the betrayal of humanity itself in the misinformation policies of the AEC. (See excerpts below from Chet Holifield speech in the House last Friday which the press largely ignored). That "clean" bomb publicity stunt visit to the White House by Admiral Strauss is only the latest in a parade of murky half-truths to block cessation of bomb tests and to maintain the arms race.

Disarmament Prospects: Rendered even poorer by the "farewell statement" of retiring AEC member Thomas E. Murray, which we hope to discuss more fully next week. Powerful military, scientific and industrial bureaucracies mobilize to maintain the arms race, but Stassen has behind him only the inchoate unorganized hopes of ordinary people and the weak good-will of the President. Adenauer and Dulles still insist a reunited rearmed Germany in NATO must be the price.

More Victims to Go Free: Few noticed that on the last day of the session the Supreme Court did not order new trials for Flaxer, Sacher and Barenblatt (contempt of Congress), or the Detroit Smith Act defendants. Instead the judgments were vacated and remanded to the Court of Appeals for reconsideration in the light of *Watkins* and the *California Smith Act* cases respectively. Similar action was taken in the case of those convicted for contempt of the Ohio "Little Un-American" Committee. These were remanded to the Ohio Supreme Court in the light of *Sweezy*. This will make the expense of new trials unnecessary, and ensures ultimate reversal.

Arthur Miller: Judge McLaughlin's opinion voiding one count but upholding the other in the Arthur Miller contempt case is extraordinarily vapid. Reversal on appeal is certain. McLaughlin upheld Count 1, refusal to answer "who was in the room" during that writers' meeting a decade ago, on the grounds that Miller failed to ask the House Commitee to explain its pertinence. McLaughlin did not discuss the more fundamental question of whether an inquiry into passport frauds had any connection with the inquiry authorized by the House Resolution, which deals with "un-American propaganda."

The Passport Decisions: The Court of Appeals split four ways in the *Briehl* and *Kent* passport cases. Judge Prettyman (see box this page) outdid himself in far-fetched arguments to justify political control of travel. Judge Bazelon in a brilliant and exhaustive dissent pointed out that the English royal writs cited as precedents by Prettyman were tyrannical hangovers which disappeared a century before the American revolution. The Supreme Court will hardly agree with the sweeping view of State Department control of travel espoused by Judge Prettyman.

Tito on TV: A stuffy performance, ludicrously translated in which Ed Murrow let the Yugoslav dictator get away with easy questions, none at all about the imprisonment of Djilas.

Back to Good Old Henry III

In upholding the State Department's right to restrict travel by requiring a non-Communist oath of applicants for passports, Judge Prettyman in the Court of Appeals last week came up against an obstacle: as far back as Magna Charta, the right to travel has been one of the fundamental rights of Anglo-American law.

The Judge bypassed this with learned ingenuity. He admitted that King John at Runnymede in 1215 had been forced to concede the right to travel. "However," Judge Prettyman added, in what he seemed to think a clincher, "John died shortly afterward, and William Marshall, regent of Henry III, republished the Charter without the guarantees of freedom of travel."

Holifield Attacks the AEC for Giving Fall-Out The Madison Ave. Treatment

"The Atomic Energy Commission approach to the hazards from bomb test fall-out seems to add up to a party line—'play it down.' . . .

"Tardy release of information is bad enough. But there is something worse. That is the selective use and release of information to favor a political position. . . .

"Whether detection of large bomb tests is feasible or not could make an enormous difference in possible international control arrangements. But the AEC does not deign to enlighten the public and its scientists are muzzled.

"Do the members recall that during the last presidential campaign it was argued that bomb testing was essential to missile development? Dr. Libby reiterated this position in substance in a paper presented to my subcommittee. But Secretary of Defense Wilson recently took a contrary position. What is the public to believe?

"The Administration line on the strontium hazard would almost persuade one that, like dishwashing with a certain detergent, 'It is almost nice.' The study project on the fall-out incidence of this bone-seeking cancer-producing substance is called PROJECT SUNSHINE, truly a cheerful name for such a deadly agent, as if it were a tranquilizer. But the people of the world do not look upon a global poison as a tonic. . . .

"I see a conflict of interests. Is it prudent to ask the same agency to develop bombs and evaluate the risks of fall-out? . . . The AEC is charged with the responsibility of weapon development and they are doing a good job in this field, but an adverse judgment on their part on bomb testing could conflict with their primary mission. . . .

"In the summer of 1955 we had an atoms for peace meeting in Geneva. I urge that an equally important conference of international scientists be convened for the evaluation of the radiation risks attending nuclear detonation and the peacetime applications of nuclear power. Bomb testing is not the only radiation hazard."

—Chet Holifield (D. Cal.), chairman of the recent special hearings on fall-out, speaking in the House June 28.

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"Ah Could Be Elected . . . If Ah Wanted To Wave the Bannuh of Bigotry"

Portrait Of A Maverick Virginian Challenging The Byrd Machine

By Marvin Caplan

If courage alone could win elections Howard H. Carwile would be the next governor of Virginia. He is the only Virginian intrepid enough to enter the July 9 Democratic primary against Attorney General J. Lindsay Almond Jr. There are Democratic "moderates" in the state who fear as Carwile does that the "massive resistance" to the Supreme Court school decision which Almond advocates may wreck the public schools. But Almond is the gubernatorial choice of Sen. Harry F. Byrd and the Democratic machine that rules the state. None of the moderates ventured into the lists against him. They left him unopposed in the primary and facing in the November general elections a Republican who is as anxious as he to preserve segregation. At a time when Virginia needs full-scale debate on the most crucial issue since the Civil War there was to be nothing, except in one or two local campaigns, but a summer of silence.

Jefferson Is A Stigma

Then to the chagrin of the state leaders who hoped to save $200,000 in election costs and present a show of Democratic unity, Carwile, a maverick Richmond attorney, jumped into the primary. He entered as a "Born Again Jacksonian Democrat" (Jefferson's name, he feels, has been so misused by states righters it has become a stigma) and dedicated his campaign to revive the Democratic Party of Virginia and to save its public schools.

A Slim Choice For Virginia's Voters

"The only issue between Byrd Democrats and Republicans in Virginia is this: Who can segregate the most efficiently and stay out of jail the longest."

—Howard H. Carwile, Speech, June 13, 1957

Announcing himself as a Democrat was a new move for Carwile who has always run for office in November as an independent. But opposing and infuriating the Byrd machine is nothing new. It has been the substance of his political career. The sound of his opposition is not new in the South either. One of the 13 children of a poor tenant farmer, the voice he raises in speeches is the furious voice of the Southern dispossessed, the poor white sharecroppers who scratch a mean existence from other men's soil.

Evangelist Into Lawyer

"He sounds like a revivalist minister!" a young matron exclaimed after a recent speech. It is no accident. His parents were devout Baptists and he grew up believing as they that he would someday be a travelling hell-fire evangelist. Somewhere in high school he was touched by skepticism; he determined to be a lawyer instead. He graduated in 1930 just as the Depression opened a vast obstacle between him and his ambition. He was able, only through terrible deprivation, to wrest an education from a small fundamentalist college in New Jersey and a law degree from Southeastern Law School in Washington. The effort broke his health. He came down with TB shortly after taking his bar exams. In 1942 while still convalescing on the farm he entered his first campaign. He ran for U. S. Representative from his District. He has run for some office almost every year since then, twice before for governor. He has never won though he almost made the Richmond City Council last year.

How Virginia Can Comply With The School Decision

"I believe in an assignment program . . . based solely on the common sense concept that every child in Virginia should be required by the local school board to attend the school that is closest to his home, provided the school is not inferior."

—Howard H. Carwile, Speech, June 13, 1957

Outwardly undiscouraged, he says he considers his campaigns platforms for his "crusades." It is in these crusades that he has shown his true vocation: reforming. It is generally acknowledged that his exposures over a period of 10 years, of brutality in the Virginia prison system led to the end of flogging and other inhuman treatment of prisoners. He has also attacked conditions in state hospitals and mental institutions and early in his career helped end Jim Crow in CIO unions in Danville. For the past few years in Richmond he has been broadcasting a 15-minute weekly program at his own expense on which, with tips sometimes from discontents within the machine, he exposes injustices and corruption.

No Banners For Bigotry

Off the platform and away from his crusades, Carwile creates a pleasant, even a benign impression. A plump, spectacled man of 45, father of an 18-month old son, he is surprisingly soft-spoken and humorous. He knows how different he is on the platform and knows, too, how close his shouting rhetorical style carries him into the company of Southern demagogues. "Ah tell you frankly," he said smiling, "Ah believe with mah gift of gab, mah use of language and mah explosive delivery it is not immodest to say ah could be elected to any office in the South if ah wanted to wave the bannuh of bigotry and race hate."

Why has he chosen not to? The immediate answer is impassioned: "To take the wrong position for selfish motivation —mah whole being rebels against it."

But how did he, a white Southerner, come to feel the South's treatment of Negroes was wrong? At first the feeling was instinctive. "Ah seem to have an inherent tendency to dissent and to rebel against the status quo." As a sharecropper's son, "Ah saw that the same people who were such rabid race haters were putting their foot in mah face." Since then as he has gone on to defend Negro clients with considerable success, he has come to see race hatred as a sickness.

Though his position is far from the prevailing one in the state, he still feels he may win July 9 if the machine underestimates him and fails to get out the vote. He has a faithful white and Negro following and good labor support. But it is all on too small a scale. His chances of winning are small. Even so the voters of Virginia—even those liberals who are put off by his vehemence—owe him their gratitude. He has given them an election, a clear alternative to Almond and a means of protest. Virginia taxpayers seldom get that much for $200,000.

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Those Investigative Files Were A Special Target There, Too

(*Continued from Page One*)

other, should have no difficulty in sensing their common interest in maintaining the social order from which they benefit against the type of person who is always criticizing his government and trying to change things. We call them "Reds" and they call them "counter-revolutionaries" but this is only a difference in language. Once this is grasped, Senator Eastland and Congressman Walter will be surprised to see in how many ways Hungary's problems with subversives resemble our own.

Precious Files Destroyed

There, as here, special problems have been created for the government by the effort of subversive elements to get at the files of investigative agencies. The United Nations Special Committee on Hungary reports that one of the demands in the uprising of last October was for the destruction of all the "screening" records so carefully built up by the secret police in its effort to watch subversive elements. In Budapest and other cities lawless mobs broke into the headquarters of the AVH, the secret political police, and destroyed files "containing 'blacklists' with information and reports on almost every inhabitant of the country, and countless recordings of telephone and private conversations." This shows what can happen when subversive elements get out of hand.

A special target in Hungary, as here, was to uncover the identity of those patriotic citizens who made it their business to help the police keep an eye on dangerous activities. One witness told the United Nations Special Committee the AVH had a network of 100,000 informers. Here the FBI has often sought by public statements to combat prejudice against ex-radicals who become informers. There the government applied our FEPC principle to their protection. "By Law II of 1952," the Special Committee reports, "anyone discriminating against a person who acted as informer for the AVH was punishable by up to six months in prison." Thanks to this specially protected network "present in all offices and all factories . . . no one knew, even when talking to friends, where his words would be repeated half an hour later." There may be pointers in this for the FBI.

How Handy Those Foreign Plots

"Fundamental to the point of view which produced these Supreme Court decisions is the refusal . . . of the Court to consider Communism a criminal conspiracy to advance the interests of an unfriendly foreign power. . . . This is what makes Communism different in kind from other unpopular minority causes which the Bill of Rights is designed to protect."

—Washington Daily News, June 25

"While the Hungarian working people called for correcting past mistakes . . . the counter-revolutionary gangs came out against the people's democracy, against socialism . . . to have failed to recognize it would have been tantamount to ignoring the facts. . . . It is a matter of common knowledge that the U. S. Congress has passed a law appropriating $100,000,000 annually to finance subversive activities in socialist countries."

—Pravda, Feb. 10, replying to a letter from British Labor MP's protesting repression in Hungary.

Maximum Safeguard

The Hungarian government in recent months has hit upon an interesting device for preventing subversives from learning what the police have on them. Congress might well consider this in drafting safeguards to get around the *Jencks* decision. According to the United Nations report on Hungary, under new procedures for dealing with "counter revolutionaries," the Public Prosecutor is empowered "to bring the accused before the Special Court without presenting the charges in writing or in advance." This takes the culprit entirely by surprise.

Should Senator Eastland and Congressman Walter visit Hungary, they will see that the Soviet system has an advantage over our own. While the Soviet countries have written Constitutions, too, the notion that their safeguards only apply to persons who agree with the government is firmly established there. The "ag'iner" is outside the pale. Even "liberal" Communists like Mao, Gomulka and Tito draw the line against "counter revolutionaries" while many conservatives as well as liberals here still defend the rights of Communists. In this respect we cling to old-fashioned habits. An exchange of ideas with the Soviet bloc might help to correct them.

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